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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/442,756	11/18/1999	REINHARD BEUTH	9350-0144-0	6353

7590

08/29/2002

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EXAMINER

HON, SOW FUN

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 08/29/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Applicati n No.

09/442,756

Applicant(s)

BEUTH ET AL.

Examiner

Sow-Fun Hon

Art Unit

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--Th MAILING DATE of this communication appears on th cover sheet with the correspondence address --

THE REPLY FILED 12 August 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
 2. ☒ The proposed amendment(s) will not be entered because:
 (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ they raise the issue of new matter (see Note below);
 (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
 4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
 7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.Claim(s) objected to: None.Claim(s) rejected: 2,4-7,9-12 and 14-29.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
 9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
 10. ☒ Other: Attachment to advisory action.

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Advisory Action

1. The proposed amendment will not be entered because they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal. They raise new issues that would require further consideration since it is unclear now whether the composition is first blended together and then granulated, or whether the polyamide and the flexible polymer are in their individual granulated forms. Applicant's arguments are addressed below.
2. Applicant argues that neither the elastic component nor the polyolefin component taught by Yamamoto et al. overlaps with the non-crosslinked copolymer of Reimann et al. Applicant is respectfully reminded that the components taught by Yamamoto et al. are also non-crosslinked (thermoplastic), that the polyolefin component is taught to be ethylene-methyl acrylate copolymers, ethylene-ethyl acrylate copolymers, ethylene-propyl acrylate copolymers, ethylene-butyl acrylate copolymers ('503, column 5, lines 60-68 and column 6, lines 1-5), and that the polyamide component is taught to be PA (nylon) 612, PA (nylon) 11 and PA (nylon) 12 ('503, column 6, lines 30-40) just as Reimann et al. teaches PA (Nylon) 612 (column 3, lines 1-20) with 5 to 65 % by weight based on the PA (nylon) of a copolymer such as ethylene-methyl acrylate and ethylene-ethyl acrylate and other ethylene-alkyl acrylates (C₂-C₈ alkyl acrylates or methacrylates) ('320, column 2, lines 45-65).
3. Applicant argues that Yamamoto et al. teaches that the tensile modulus of elasticity disclosed by Yamamoto et al. is for a composition that contains additional components other than those listed by the examiner, and therefore does not reflect the tensile modulus of elasticity of the composition of Reimann et al. Applicant is respectfully reminded that Reimann et al.

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teaches that copolymers of ethylene, acrylic or methacrylic acid and acrylates act as elastifying components when added to polyamides (nylons) ('320, column 2, lines 15-20), hence demonstrating that the ethylene-methyl acrylate copolymers, ethylene-ethyl acrylate copolymers, ethylene-propyl acrylate copolymers, ethylene-butyl acrylate copolymers ('503, column 5, lines 60-68 and column 6, lines 1-5) of Yamamoto et al. make a significant contribution toward the tensile modulus of elasticity of the composition.

4. Applicant argues that Yamamoto et al. requires fiber reinforcement not employed in Reimann et al. Applicant is respectfully reminded that Reimann et al. discloses that the ethylene copolymer is dispersed in the PA (nylon) having a size less than 1 micron, which via injection molding may be present in the form of fibers (elongated along the direction of injection flow) ('320, column 4, lines 50-60).

5. Applicant argues that Bouilloux et al. only teaches the use of VLDPE in a comparative example. Applicant is respectfully reminded that the Bouilloux et al. does teach VLDPE along with other polyolefins as the polyolefin used in the composition ('055, column 5, lines 5-50).

6. Applicant argues that Bouilloux et al. only teaches the use of PA 6 which is not an applicable polyamide component. Applicant is respectfully reminded that Polyamide 12 (12-aminodecanoic acid condensation product) is taught ('055, column 2, lines 50-68).

7. Applicant argues that the presently claimed invention is not drawn to the chemical structure of a matrix of a polyamide/polyamide-polyether alloy with dispersed cross-linked phase. Applicant is respectfully reminded that the present claims as worded do not preclude it.

8. Applicant argues that Jadamus et al. does not suggest any equivalence between their

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polyalkenamers and polyethylene. Applicant is respectfully reminded that Jadamus et al. does teach that the polyalkenylene is an alternative to polyethylene ('552, column 1, lines 35-45) and that that the polyalkenylenes produce synergistic effects so that smaller amounts of the polyalkenylenes are incorporated in comparison with the known polyethylene ('552, column 4, lines 50-60), which provides the advantage and thus the motivation to combine.


9. Applicant argues that Jadamus et al. does not teach that the polyalkenylenes are equivalent to polyethylene in terms of flexibility. Applicant is respectfully apprised that they both belong to the family of polyolefins, specifically polyolefins with non-aromatic structures. The rigid romatic structures significantly impacts the flexibility of the main chain skeleton of the polyolefin. The flexible cyclic structures of the polyalkenylenes are non-aromatic.

Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (703)308-3265. The examiner can normally be reached Monday to Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (703)308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

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08/28/02


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

8/28/02